

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
at CHATTANOOGA

ROBERT G. MODRALL,

*Plaintiff,*

v.

SUSAN K. LEE, *et al.*

*Defendants.*

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Case No. 1:15-cv-155

Judge Mattice

Magistrate Judge Guyton

**ORDER**

On June 30, 2015, Magistrate Judge H. Bruce Guyton filed his Report and Recommendation (Doc. 6). Magistrate Judge Guyton recommended that (1) Plaintiff's Application to proceed *in forma pauperis* be granted; (2) that the Complaint be dismissed with prejudice; (3) that the district court certify that any appeal of this decision would not be taken in good faith; and (4) that Plaintiff be barred from making any additional filings in this Court.

On August 21, 2015, Plaintiff appealed Magistrate Judge Guyton's Report and Recommendation to the United States Court of Appeals for the Sixth Circuit (Doc. 7). On September 24, 2015, the Sixth Circuit dismissed Plaintiff's appeal as not appealable, specifically noting that its order was without prejudice to any appeal of this Court's final judgment. (Doc. 8 at 1).

Aside from his improper appeal to the Sixth Circuit, Plaintiff has filed no objections to the Magistrate Judge's Report and Recommendation.<sup>1</sup> Nevertheless, the

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<sup>1</sup> Magistrate Judge Guyton specifically advised Plaintiff that he had 14 days in which to object to the Report and Recommendation and that failure to do so would waive his right to appeal. (Doc. 21 at 17 n.7); see Fed. R. Civ. P. 72(b)(2); see also *Thomas v. Arn*, 474 U.S. 140, 148-51 (1985) (noting that "[i]t does not appear that Congress intended to require district court review of a magistrate's factual or legal

Court has conducted a review of the Report and Recommendation, as well as the record, and it agrees with Magistrate Judge Guyton's well-reasoned conclusions. The complete absence of substantive factual allegations in the Complaint (Doc. 1), as well as the nature of relief requested, namely "\$1 Billion, a Presidential Medal of Freedom with Distinction, and a Nobel Peace Prize," (Doc. 1 at 3), lead this Court to find that the Complaint is frivolous and motivated by malice. Accordingly, any appeal of this decision would not be taken in good faith, and Plaintiff will be put **ON NOTICE** that any future filings in this Court regarding these same matters may be subject to summary dismissal.

Accordingly,

- The Court **ACCEPTS** and **ADOPTS** Magistrate Judge Guyton's findings of fact, conclusions of law, and recommendations (Doc. 6);
- Plaintiff's Motion for Leave to Proceed *In Forma Pauperis* (Doc. 3) is hereby **GRANTED**;
- Plaintiff's Complaint (Doc. 1) is hereby **DISMISSED WITH PREJUDICE**;
- The Court hereby finds that any appeal of this decision would not be taken in good faith; and
- Plaintiff is hereby **ON NOTICE** that any future filings in this Court regarding these same matters may be subject to summary dismissal.

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conclusions, under a *de novo* or any other standard, when neither party objects to those findings"). Even taking into account the three additional days for service provided by Fed. R. Civ. P. 6(d), the period in which Plaintiff could timely file any objections has now expired. Furthermore, even construing liberally Plaintiff's appeal to the Sixth Circuit as an objection to the Report and Recommendations, Plaintiff's objection was grossly untimely and will not be considered.

**SO ORDERED** this 5th day of February, 2016.

/s/ Harry S. Mattice, Jr.  
HARRY S. MATTICE, JR.  
UNITED STATES DISTRICT JUDGE